



W.P(MD)No.13731 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2025

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.13731 of 2024

S.Selvarajan

... Petitioner

Vs

The Sub Registrar,
Thiruvaiyaru Sub Registration Office,
Thanjavur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned check slip in RFL/Thiruvaiyaru/42/2024 dated 30.05.2024 issued by the respondent, quash the same and consequently direct the respondent to register and release the sale deed dated 20.05.2024 executed and presented by the petitioner, within time frame.

For Petitioner : Mr.B.Prasanna Vinoth

For Respondent : Mr.N.Ramesh Arumugam
Govt. Advocate.



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ORDER

This writ petition is filed to quash the impugned check slip in RFL/Thiruvaiyaru/42/2024 dated 30.05.2024 issued by the respondent and to direct the respondent to register and release the sale deed dated 20.05.2024 executed and presented by the petitioner within the stipulated time.

2. The petitioner claims that his father, Late Sarangapani, had purchased the property measuring an extent of 68 cents comprised in S.No.265/3, situated at Kalyanapuram Madhal Chethi, Thiruvaiyaru Taluk, Thanjavur District on 22.07.1959. The said document was registered as Doc. No. 1308/1959 on the file of the respondent. Subsequently, the revenue records were mutated in his favour. In the very same village, another land measuring an extent of 9 cents situated in S.No.281A/14 was purchased by the said Sarangapani from one Visalatchi on 17.04.1995. This too was registered in Doc. No. 2185/1995. The said Sarangapani executed a "WILL" bequeathing the property to his wife, the petitioner, and his siblings. In the said "WILL," these properties were found in schedule "E". This was allotted to the petitioner. Sarangapani passed away on 24.06.1999.



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3. Having come by the property pursuant to the “WILL,” the petitioner mutated the revenue records in his favour and claims to be in possession and enjoyment of the same. For the purpose of putting his finances in order, the petitioner negotiated and sold the property to one Rajadurai. He executed a sale deed on 20.05.2024 and presented the same for registration with the respondent. The respondent issued the impugned refusal check slip, stating that in S.No.265/3 out of 68 cents claimed by the petitioner, 23 cents had been sold in favour of one Krishnan in Doc. No. 1002/1960. Challenging the same, the present writ petition is filed.

4. Heard Mr.B. Prasanna Vinoth, for the petitioner, and Mr.N.Ramesh Arumugam, learned Government Advocate, for the respondent.

5. Mr.B. Prasanna Vinoth, after narrating the facts, urged that the petitioner has unimpeachable title from 1959 downwards. Therefore, the impugned order is unsustainable. He states that the circular relied on by the respondent cannot overwrite the statutory provision, and therefore, he seeks this writ petition to be allowed.



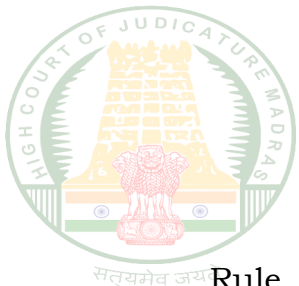
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6. Per contra, Mr.N.Ramesh Arumugam, learned Government Advocate, points out that in the Encumbrance Register maintained by the respondent, there is a document pointing out that an extent of 23 cents out of 68 cents in S.No.265/3 had been alienated in favour of a third party. He states that the registration of this document implies that the petitioner is claiming more than what he is entitled to. He disputed the extent on the document that has been presented by the writ petitioner. Furthermore, he points out that in case the Sub Registrar were to receive the document as sought for by the petitioner, it would open to the said Sub Registrar for prosecution, and it is only for avoiding unpleasant circumstances that the refusal check slip had been issued.

7. I have carefully considered the submissions of both sides.

8. The power of the Sub Registrar to refuse a document is primarily found under four sections, namely, 22A, 22B, 71, and 76 of the Registration Act. The Registration Rules also dedicated a separate chapter enabling the Sub Registrar to refuse any document presented for registration. This under Chapter XXIII. The power is traceable to



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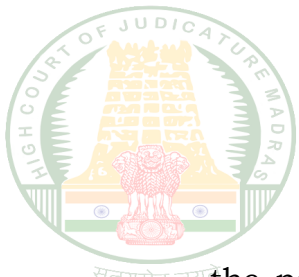
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Rule 162 of the Registration Rules. In none of these provisions, the Sub Registrar is empowered to question the title of the executant.

9. It is too well settled, but I would necessarily have to reiterate that registration relates to the presentation of documents and not to the transaction. Transfer of title depends upon the transaction. If the writ petitioner has no title to 23 cents, allegedly purchased under Doc. No.1002/1960, then the purchaser Rajadurai would not have title to the said property. The registration of the document does not perforce deal with the transfer of title.

10. It is only on account of this position that the Registration Rules under Rule 55, contemplate that the Sub Registrar cannot probe into the questions of title. Therefore, the Sub Registrar need not be bothered whether Sarangapani is the owner or whether Selvaraj has become the owner or whether Krishnan has a pre-existing title to the property.

11. In fact, if the logic of the Sub Registrar should have been applied, the 1960 document itself should not have been registered because Sarangapani had purchased the property in the year 1959. This shows that the Sub Registrar in the year 1960 was well aware of



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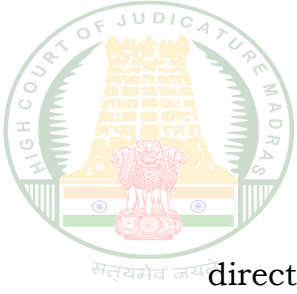
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the position and hence did not refuse the document presented over the property earlier.

12. Apart from that, in **T.Senthilvel vs. District Registrar (Administration), Dindigul District and others, W.P.(MD).No.22114 of 2024 dated 17.10.2024**, the Hon'ble Mr.Justice N.Sathishkumar held merely because there is a double entry in respect of the subject property, registration of the document cannot be refused.

13. Insofar as the plea of Mr.N.Ramesh Arumugam that the registration of the document might invite prosecution of the respondent is concerned, the legislature was well aware of this position and had included Section 86 of the Registration Act to cover such circumstances. If the registering officer registers a document or refuses to register the document in good faith, the Act protects him from any suit, claim, or demand for any other reasons. That being the position, the fear expressed by Mr.N.Ramesh Arumugam that the respondent might be prosecuted also does hold water.

14. In the light of the above discussion, the impugned check slip in RFL/Thiruvaiyaru/42/2024 dated 30.05.2024 issued by the respondent is quashed. This writ petition is allowed. There shall be a



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direction to the respondent to register and release the sale deed dated 20.05.2024 executed and presented by the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs.

04.04.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
skn

To
The Sub Registrar,
Thiruvaiyaru Sub Registration Office,
Thanjavur District.



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V.LAKSHMINARAYANAN, J.

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